

REMARKS

By the foregoing amendment, claims 5, 8 and 9 have been amended, and claims 19-33 have been added. No new matter has been added. Accordingly, claims 5-10, and 19-33 are now pending. Attached hereto as Exhibit B is a list of all pending claims for this case.

Enclosed herewith is a check to cover the filing fee of \$126 for fourteen additional total claims in excess of twenty, paid at the small entity status to which these Applicants are entitled.

In an official action mailed on June 29, 2001, the examiner set forth a restriction requirement advising that if Group I (including claim 2) was elected, the applicants must identify a single disclosed species from those listed in claim 2. Group I was not elected in the applicants' response to the restriction requirement. However, new claim 24 includes all of the species that are listed in claim 2. Accordingly, to expedite prosecution, the Applicants provisionally elect *Malus*, in anticipation of a corresponding requirement being applied against new claim 24.

Moreover, although Applicants maintain that analogous requirements to elect a single species in claims 27, 29, 31, and 33 would be improper, in order to expedite prosecution, Applicants provisionally elect apple in claims 27, 31 and 33, and wax palm in claim 29, if similar such requirements are imposed.

Pursuant to 37 C.F.R. §1.121, a marked-up version of the changes made to the claims by the present amendment is attached hereto as Exhibit A, following the signature page of this amendment. Exhibit A is captioned "Version With Markings to Show Changes Made."

It is submitted that the application is now in condition for allowance.

Respectfully submitted,

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## **EXHIBIT A**

### **VERSION WITH MARKINGS TO SHOW CHANGES MADE**

#### **In the Claims:**

Claims 5, 8 and 9 have been amended as follows:

5.(Amended) A method for producing a preparation possessing antiviral activity comprising substances obtained from cuticular or epicuticular layers of a plant or plant part, the method comprising:

a) exposing the plant or plant part to a solvent under conditions sufficient to solubilize materials in the cuticular and epicuticular layers of the plant, while leaving cells and tissues internal to the epidermis substantially unaffected [, thereby]; and

b) obtaining a solution or suspension of plant cuticular and epicuticular materials, [and, optionally, b) removing the solvent,] thereby producing the antiviral preparation.

8. (Amended) The method of claim 5 wherein the step of exposing [comprising] comprises spraying the plant or plant part with the solvent.

9. (Amended) The method of claim [9] 19 wherein the removal of the solvent is performed by a method selected from the group consisting of aspiration, static evaporation, heating, centrifugal evaporation, rotary evaporation, vortex evaporation, lyophilization, liquid-liquid separation, solid-liquid separation and precipitation.

**EXHIBIT B**

**PENDING CLAIMS**

5. A method for producing a preparation possessing antiviral activity comprising substances obtained from cuticular or epicuticular layers of a plant or plant part, the method comprising:

a) exposing the plant or plant part to a solvent under conditions sufficient to solubilize materials in the cuticular and epicuticular layers of the plant, while leaving cells and tissues internal to the epidermis substantially unaffected ; and

b) obtaining a solution or suspension of plant cuticular and epicuticular materials, thereby producing the antiviral preparation.

6. The method of claim 5 wherein the solvent comprises one or more ingredients selected from the group consisting of hexane, chloroform, dichloromethane, heptane, ether, petrolether, t-butyl ether, DMSO, supercritical fluids and carbon dioxide.

7. The method of claim 5 wherein the step of exposing comprises dipping the plant or plant part into the solvent.

8. The method of claim 5 wherein the step of exposing comprises spraying the plant or plant part with the solvent.

9. The method of claim 19 wherein the removal of the solvent is performed by a method selected from the group consisting of aspiration, static evaporation, heating, centrifugal evaporation, rotary evaporation, vortex evaporation, lyophilization, liquid-liquid separation, solid-liquid separation and precipitation.

10. An antiviral preparation prepared by the method of claim 5.

19. The method according to claim 5 further comprising removing the solvent.

20. The method according to claim 19 further comprising redissolving the antiviral preparation in a biologically compatible medium.

21. The method according to claim 5 further comprising clarifying the solution or suspension of plant cuticular and epicuticular materials.

22. The method according to claim 5 further comprising formulating the antiviral preparation into a pharmaceutical composition.

23. The method according to claim 5 further comprising formulating the antiviral preparation into a nutraceutical composition.

24. The method according to claim 5 wherein the plant or plant part is selected from the group consisting of *Malus*, *Pyrus*, *Vita*, *Citrus*, *Lycopersicon*, *Brassica*, *Cucumis*, *Prunus*, *Persea*, *Vaccinium*, *Arctostaphylos*, *Olea*, *Nicotianum*, *Quercus*, *Eucalyptus*, *Rhododendron*, *Ilex*, *Eriobotrya*, *Salix*, *Copernicia*, *Euphorbia*, *Pedilanthus*, *Syagrus*, *Cocos*, *Attalea*, *Stipa*, *Glyceria*, *Saccharum*, *Myrica*, *Rhus*, *Sapium*, *Ceroxylon*, *Linum*, *Agave*, *Cannabis*, *Raphia*, *Coccus*, *Ligustrum*, *Fraxinus*, *Benincasa*, *Ricinus*, *Buxus*, *Mesembryanthemum*, *Rubus* and *Melaleuca*.

25. The method according to claim 5 wherein the antiviral activity is effective against a virus selected from the group consisting of human immunodeficiency virus, herpes simplex virus, other herpes viruses, influenza virus, rhinovirus, poliovirus, hepadnaviruses, cytomegalovirus, measles virus, parainfluenzavirus, vesicular stomatitis virus, vaccinia virus, encephalitis virus and African Swine Fever virus.

26. The method according to claim 5 wherein the antiviral activity is anti-HSV activity.

27. The method according to claim 26 wherein the plant or plant part is selected from the group consisting of pear, avocado, apple, grape, orange, tomato, wax palm and plum.

28. The method according to claim 5 wherein the antiviral activity is anti-HIV activity.

29. The method according to claim 28 wherein the plant or plant part is selected from the group consisting of willow, wax palm and plum.

30. The method according to claim 5 wherein the antiviral activity is anti-influenza activity.

31. The method according to claim 30 wherein the plant or plant part is selected from the group consisting of apple, avocado, tomato and cabbage.

32. The method according to claim 5 wherein the plant or plant part is an agricultural or horticultural plant.

33. The method according to claim 32 wherein the agricultural or horticultural plant is selected from the group consisting of pear, avocado, apple, grape, orange, tomato, willow, wax palm, plum and cabbage.